HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O. No. 26 of 2002

State of Uttaranchal & another .... Appellants

Versus

Ershad Hussain & others .... Respondents

Dated: 30.9.2004

Hon. Rajesh Tandon J.

Heard the learned counsel for the parties.

Present appeal has been field against the judgment and award dated 3.11.2001 passed by the Motor Accident Claims Tribunal, Kashipur, District Udham Singh Nagar

Briefly stated a claim petition has been field by the respondent no.1 Sri Ershad Hussain for grant of compensation on account of death of his brother Nanhey in a motor vehicle accident on 27.3.2000 at 3.35 PM at Kashipur involving Jeep No. UP 32E/7394. The petitioner has alleged that the accident had taken place due to rash and negligent driving of the Jeep by the opposite party Shiv Singh.

The opposite parties have contested the claim petition and field their respective written statements. The opposite parties

have denied that the accident was caused due to rash and negligent driving.

The Claims Tribunal has framed as many as three issues and has held that the accident was caused due to rash and negligent driving by the driver of the jeep. The Claims Tribunal has awarded a sum of Rs.80,000/- to the petitioner as compensation. Feeling aggrieved the present appeal has been field by the State of Uttaranchal.

The appellant has admitted that fact that the jeep involved in the accident belongs to the State of U.P. and is allotted to the Chief Medical Officer, Almora. The factum of accident is also admitted to the appellant. The appellant has challenged the findings of the Claims Tribunal regarding rash and negligent driving and the amount of compensation awarded.

The claimants has examined P.W.1 Erashad Hussain and P.W.2 Asagar Hussain to prove his case and also filed copy of the F.I.R. and post mortem report. The opposite parties have examined Sri Shiv Singh in defence.

Both the witnesses examined on behalf of the Claimant have categorically stated that the accident had taken placed due to rash and negligent driving of the Jeep driver as he dashed the rickshaw on which the deceased was going from behind. I have gone through the record and I find no infirmity in the finding of the Claims Tribunal on this issue.

So far as the amount of compensation in concerned the Claims Tribunal has only awarded a sum of Rs.80,000/- as compensation. The petitioner has claimed that at the time of accident the age of the deceased was 40 years and he was earning Rs.4,000/- per month by pulling rickshaw. The deceased was a young man and he might have been earned at

least a sum of RS.1,500/- by pulling rickshaw and thus a compensation of Rs.80,000/- awarded by the Claims Tribunal is not exaggerated in any view of the matter.

Thus in view of the above observations, the appeal is dismissed. No order as to costs.

(Rajesh Tandon J.)

30.9.2004

*Dhyani